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# **Water & Natural Resources Committee**

**Wednesday March 29, 2006  
2:00 p.m.—3:00 p.m.  
Reed Hall**

**Meeting Packet**

**Allan G. Bense  
Speaker**

**Donna Clarke  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

### Water & Natural Resources Committee

**Start Date and Time:** Wednesday, March 29, 2006 02:00 pm

**End Date and Time:** Wednesday, March 29, 2006 03:00 pm

**Location:** Reed Hall (102 HOB)

**Duration:** 1.00 hrs

#### Consideration of the following bill(s):

HB 1241 Caloosahatchee-St. Lucie Rivers Corridor Advisory Council by Williams

HB 1459 Regulated Reptiles by Poppell

NOTICE FINALIZED on 03/27/2006 15:38 by LARSON.LISA



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1241

Caloosahatchee-St. Lucie Rivers Corridor Advisory Council

**SPONSOR(S):** Williams

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2586

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water &amp; Natural Resources Committee</u>		Winker <i>KW</i>	Lotspeich <i>RAL</i>
2) <u>Agriculture &amp; Environment Appropriations Committee</u>			
3) <u>State Resources Council</u>			
4) _____			
5) _____			

### SUMMARY ANALYSIS

The bill creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection for the purpose of holding meetings and public hearings to collect public comments and information, and review the operation and management of Lake Okeechobee and the associated water discharges from the lake into the two rivers and their estuaries.

The bill requires the Advisory Council to develop recommendations related to the following:

- Projects, programs, and regulations addressing or mitigating the impacts of high level water discharges from Lake Okeechobee into the waters of the Caloosahatchee River, the St. Lucie Canal, and the St. Lucie River and their estuaries.
- Projects and plans related to the Lake Okeechobee Protection Program and the Comprehensive Everglades Restoration Plan.
- Projects to remove accumulated sediments from Lake Okeechobee.
- Alternative treatment strategies, projects, best management practices, and funding sources to more effectively manage the hydrology of the lake and the two rivers.
- Identifying and securing long-term funding for implementing projects and programs identified by the Advisory Council.

The bill requires the Advisory Council to submit the following two reports:

- A report to the President of the Senate and the Speaker of the House of Representatives prior to the 2007 regular session of the Legislature for implementation of projects and strategies to mitigate the effects of high water discharges from Lake Okeechobee into the two rivers.
- A report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007 with recommendations for implementation by the Legislature and the Governor that will mitigate the ecological effects upon the rivers and their corridors and stabilize the effect of high water discharges from Lake Okeechobee upon the tourist economy of Southwest and Southeast Florida.

The bill abolishes the advisory commission on April 1, 2007.

The bill becomes effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Lake Okeechobee**

Lake Okeechobee (Lake) and its watershed are major components of the south Florida's Kissimmee-Okeechobee-Everglades ecosystem. The Lake is the second largest freshwater body of water located entirely within the continental United States. The Lake serves multiple purposes and functions including recreational and commercial fishery, a habitat for flora and fauna, a source for drinking water for surrounding cities and towns including being a backup source for water for communities along the lower east coast of Florida, a source of irrigation water for the regional agricultural community, and a major supplier of water for the Everglades.

Throughout the 20th Century, much of the land around the Lake was converted to agricultural use with dairy farms and cattle ranches being primary users of the lands north of the Lake and sugar cane and vegetable farms occupying the lands south of the Lake. These activities have rapidly increased the amounts of nutrient (nitrogen and phosphorus) inputs to the Lake. Over the past several decades, numerous programs and projects have been implemented for the purpose of reducing the amounts of nutrients flowing into and contained within the Lake.

In the 1920's, two major hurricanes struck south Florida with one of them producing a storm surge in the Lake that flooded coastal areas and acreage to the south of the Lake, killing about 2,000 people. As a result, at the request of the State, Congress directed the U.S. Army Corps of Engineer to address the flooding issue and subsequently constructed the Herbert Hoover Dike, which is an earthen levee surrounding the Lake's perimeter. In addition, the U. S. Army Corps of Engineers has adopted a "regulation schedule" which determines the timing and volume of water to be released from the Lake in order to prevent a breach of the Hoover Dike,

According to the South Florida Water Management District (SFWMD), because high phosphorous loads have occurred over several decades, a large amount of phosphorous has accumulated at the bottom of the Lake in the form of soft organic mud. Because of the Lake's shallow depth (averaging 9 feet), the mud is mixed into the water every time strong winds blow across the surface of the Lake, keeping phosphorous levels high in the Lake. Such internal phosphorous loads have reached the same levels as external loads coming from the watershed to the Lake.

##### **St. Lucie River**

The St. Lucie Estuary and River watershed are located on the central coast of Florida with the watershed covering about 780 square miles. The St. Lucie River's headwaters lie between the lands west of Ft. Pierce in St. Lucie County to near the north boundary of Jonathan Dickinson State Park in Martin County. The south fork of the St. Lucie River connects with the cross state Okeechobee Waterway which was built by the U.S. Army Corps of Engineers and completed in 1937.

The purpose of the Okeechobee Waterway is to provide a means for releasing water from Lake Okeechobee when the level of the Lake reaches flooding stages. As water is released from the Lake, the Lake water's quality along with sediment from the banks of the waterway and pollutants for stormwater runoff all have negative effects on the water quality of the St. Lucie River.

## Caloosahatchee River

The Caloosahatchee River and Estuary are located on the Southwest coast of Florida. The Caloosahatchee River connects Lake Okeechobee to the Caloosahatchee Estuary. The river was originally a shallow meandering stream, which has gone through numerous dredging and rechannelization projects over a long period of time. In the early 1930s locks and water control structures were constructed on the river. Some of these locks act as salinity barriers, since the river is composed of fresh water (entering the river at Lake Okeechobee) and salt water as it empties its waters into the Gulf of Mexico. Dredging and channelization of the river, as well as its artificial connection to the Lake and the Lake's use as a water supply for urban and agricultural uses, have drastically altered the hydrology of the river.

## Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Plan (CERP) is a large, comprehensive, long-term project to restore the Everglades in terms of the quantity, quality, timing, and distribution of water to the Everglades ecosystem. The goal of CERP is to restore, preserve, and protect South Florida's ecosystem, and to provide for other water-related needs of the region, including water supply and flood protection.

According to the 2006 South Florida Environmental Report by SFWMD, total anticipated expenditures for CERP projects in FY 2006 are about \$442 million. In FY 2005, land acquisitions for CERP and CERP-related projects were 1,211,704 acres, which is more than 50% of the land projected to be acquired for CERP. In 2004, eight ecosystem restoration CERP projects were accelerated at an estimated cost of \$1.5 billion with construction to begin in fiscal years 2006-07.

## Lake Okeechobee Protection Program

In 2000, the Legislature created the Lake Okeechobee Protection Program (s. 373.4595, F.S.) requiring the SFWMD, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection to implement programs and projects that will restore the Lake and its watershed. The Legislature determined that improving the hydrology and water quality of the Lake is essential to the restoration and protection of the Everglades and that it is "imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting (the Lake) and downstream receiving waters." The Legislature also determined that phosphorous loads from the Lake Okeechobee watershed have contributed to excessive phosphorous levels in the Lake and downstream receiving waters and that a "reduction in the levels of phosphorous levels will benefit the ecology of these systems."

## Conditions and Release of Water from Lake Okeechobee

Section 373.4595(5), F.S., prohibits the SFWMD for diverting waters from the Lake to the St. Lucie River, the Indian River estuary, the Caloosahatchee River and its estuary, or the Everglades National Park "in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion of waters from the Lake is permitted when an emergency is declared by the SFWMD if the Secretary of the Department of Environmental Protection concurs.

The SFWMD in collaboration with the U.S. Army Corps of Engineer has developed a "regulation schedule" for the Lake designed to provide floodwater storage capacity during the wet season and to supplement water supply during the dry season. However, when Lake water levels are extremely high, water discharges are sent through canals to the St. Lucie and Caloosahatchee estuaries in order to prevent a breach of the Hoover Dike.

The 2006 South Florida Environmental Report, by SFWMD provides an update on the status of the Lake and the need to divert waters out of the Lake. During August-October 2004, the Lake received a large volume of water from rainfall and inflows. During this same time period, the Lake received about 83% of the total phosphorous load for the water year. Water levels in the Lake increased by about 6 feet. As a result, it was necessary to reduce water levels in the Lake through discharges into the St. Lucie and Caloosahatchee rivers in order to prevent a possible catastrophic failure of the Hoover Dike.

Effects of the 2004 hurricanes and related windy conditions re-suspended and distributed large amounts of phosphorous-laden sediments throughout the Lake. These sediments significantly reduced the amount of light available to submerged aquatic vegetation and increased the amount of blue-green algae. Also, the Lake experienced excessive phosphorus loads, averaging 540 metric tons per year, which is more than four times higher than the recently established Total Maximum Daily Loads for the Lake, pursuant to the 2000 Lake Okeechobee Protection Act.

As discussed above, an operating schedule for the Lake, jointly established and managed by SFWMD and the U.S. Army Corps of Engineers, determines the extent to which water will be released from the Lake into the downstream ecosystems and watersheds, including the St. Lucie and Caloosahatchee rivers and their estuaries. According to the 2006 Report by SFWMD, the operating schedule is being reassessed with the intent of maintaining the Lake's long-term ecological health and reducing large water discharges from the Lake to downstream ecosystems.

### **Effect of Proposed Changes**

The bill creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection for the purpose of holding meetings and public hearings to collect public comments and information and review the operation and management of Lake Okeechobee and the associated water discharges from the lake into the two rivers and their estuaries.

The bill establishes a method and criteria for selecting the 17 members for the Advisory Council.

The Governor appoints the following five members (and appoints the chair of the Advisory Council):

- a consumer;
- an engineer with hydrologic experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative from the agricultural industry;
- a representative of an environmental group; and
- a representative from the business or tourism community in Okeechobee, Martin, or Palm Beach counties.

The President of the Senate appoints the following six members:

- a representative of local government in Lee County;
- a hydrologist with experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative of the agricultural industry;
- a representative of an environmental group;
- a representative from the business or tourism community in Lee or Charlotte county; and
- a member of the Senate.

The Speaker of the House of Representatives appoints the following six members:

- a representative of local government in Martin County;
- a biologist with hydrologic experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative of the agricultural industry;
- a representative of an environmental group;
- a representative from the business or tourism community in Hendry or Glades county; and
- a member of the House of Representatives.

The bill provides for per diem and travel expenses for the members which must hold its first meeting no later than 60 days after the effective date of the act.

The bill provides that the Advisory Council will be staffed by an executive director and other personnel (exempt from career service) selected and hired by the Department of Environmental Protection which may also employ staff and consultants to the Advisory Council. The SFWMD and DEP must each appoint a liaison to work with the executive director and provide expertise and assistance to the Advisory Council.

The bill requires the Advisory Council to develop recommendations related to the following:

- Projects, programs, and regulations addressing or mitigating the impacts of high level water discharges from Lake Okeechobee into the waters of the Caloosahatchee River, the St. Lucie Canal, and the St. Lucie River and their estuaries.
- Projects and plans related to the Lake Okeechobee Protection Program and the Comprehensive Everglades Restoration Plan.
- Projects to remove accumulated sediments from Lake Okeechobee.
- Alternative treatment strategies, projects, best management practices, and funding sources to more effectively manage the hydrology of the lake and the two rivers.
- Identifying and securing long-term funding for implementing projects and programs identified by the Advisory Council.

The bill requires the advisory council to submit the following two reports:

- A report to the President of the Senate and the Speaker of the House of Representatives prior to the 2007 regular Session of the Legislature for implementation of projects and strategies to mitigate the effects of high water discharges from Lake Okeechobee into the two rivers.
- A report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007 with recommendations for implementation by the Legislature and the Governor that will mitigate the ecological effects upon the two rivers and their corridors, and stabilize the effect of high water discharges from Lake Okeechobee upon the tourist economy of Southwest and Southeast Florida.

The bill abolishes the advisory commission on April 1, 2007.

The bill becomes effective upon becoming law.

#### C. SECTION DIRECTORY:

Section 1: Creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection.

Section 2: The bill takes effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:



Expenditures would be needed to fund the positions of executive director and other staff for the Advisory Council and for per diem and travel expenses for meetings and related activities of the Advisory Council. There is no appropriation specifically provided for in the bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Findings and recommendations from the Advisory Council could have a positive fiscal benefit upon the Lake Okeechobee, St. Lucie, and Caloosahatchee rivers regions in terms of enhancing the economy of the regions.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

N/A

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

N/A

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1                                   A bill to be entitled  
 2       An act relating to the Caloosahatchee-St. Lucie Rivers  
 3       Corridor Advisory Council; creating the advisory council;  
 4       providing a definition; providing for appointment of  
 5       members, per diem and travel expenses, staff, and duties  
 6       of the advisory council; exempting staff from pt. II of  
 7       ch. 110, F.S., relating to the Career Service System;  
 8       requiring recommendations to the Legislature; requiring a  
 9       report to the Legislature and Governor by a specific date;  
 10      providing for expiration of the advisory council;  
 11      providing an effective date.

12  
 13       WHEREAS, the hydrologic basins of the Caloosahatchee River  
 14      and its estuary and the St. Lucie River and its estuary,  
 15      including Lake Okeechobee, constitute a single, hydrologically  
 16      related system, and

17       WHEREAS, during climatic periods of high rainfall and  
 18      tropical storms occurring within this system, the high rates of  
 19      surface water discharge from Lake Okeechobee have significant  
 20      adverse impacts on the receiving waters of the Caloosahatchee  
 21      River and the St. Lucie River ecosystems and their estuaries,  
 22      and

23       WHEREAS, high concentrations of nutrients and other  
 24      pollutant-laden discharges that significantly degrade receiving  
 25      waters have a demonstrable economic effect on the region's very  
 26      substantial tourist and outdoor recreational economies, as well  
 27      as the quality of life of the residents of Lee and Martin  
 28      Counties, and

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WHEREAS, while the Lake Okeechobee Protection Program provides significant safeguards and strategies for protecting and improving water quality discharges into Lake Okeechobee, there is no comprehensive plan for the Caloosahatchee-St. Lucie Rivers Corridor, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Caloosahatchee-St. Lucie Rivers Corridor Advisory Council; membership; meetings; staff.--

(1) For purposes of this act, the hydrologic basins of the Caloosahatchee River and its estuary and the St. Lucie River and its estuary, including Lake Okeechobee, shall be known as the "Caloosahatchee-St. Lucie Rivers Corridor."

(2) There is created the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection consisting of 17 members who shall be appointed as follows:

(a) The Governor shall appoint:

1. One consumer member.

2. One member with hydrologic experience within the Caloosahatchee-St. Lucie Rivers Corridor and expertise in engineering.

3. One member from the agriculture industry.

4. One member from an environmental group.

5. One member from the business or tourism community in Okeechobee County, Martin County, or Palm Beach County.

(b) The President of the Senate shall appoint:

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57        1. One member representing local government in Lee County.

58        2. One member with hydrologic experience within the  
59 Caloosahatchee-St. Lucie Rivers Corridor and expertise in  
60 hydrology.

61        3. One member from the agriculture industry.

62        4. One member from an environmental group.

63        5. One member from the business or tourism community in  
64 Lee County or Charlotte County.

65        6. One member from the Senate.

66        (c) The Speaker of the House of Representatives shall  
67 appoint:

68        1. One member representing local government in Martin  
69 County.

70        2. One member with hydrologic experience within the  
71 Caloosahatchee-St. Lucie Rivers Corridor and expertise in  
72 biology.

73        3. One member from the agriculture industry.

74        4. One member from an environmental group.

75        5. One member from the business or tourism community in  
76 Hendry County or Glades County.

77        6. One member from the House of Representatives.

78        (d) The Governor shall appoint the chair of the advisory  
79 council from among its members.

80        (e) Appointments to the advisory council shall be made no  
81 later than 30 days after the effective date of this act.

82        (f) Each member of the advisory council may receive per  
83 diem and travel expenses as provided in s. 112.061, Florida

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84   Statutes, while carrying out the business of the advisory  
85   council.

86       (g)   The first meeting of the advisory council shall be  
87   held no later than 60 days after the effective date of this act.

88       (h)   The records and meetings of the advisory council are  
89   subject to the provisions of chapter 119 and s. 286.011, Florida  
90   Statutes.

91       (i)   The advisory council shall be staffed by an executive  
92   director and other personnel selected and hired by the  
93   Department of Environmental Protection who shall be exempt from  
94   part II of chapter 110, Florida Statutes, relating to the Career  
95   Service System. The Department of Environmental Protection may  
96   employ staff and consultants as necessary to assist the advisory  
97   council in fulfilling its responsibilities. The South Florida  
98   Water Management District and the Department of Environmental  
99   Protection shall each appoint a liaison for the respective  
100   agency to work directly with the executive director of the  
101   advisory council and to provide expertise and assistance to the  
102   advisory council.

103       (3)   The duties of the Caloosahatchee-St. Lucie Rivers  
104   Corridor Advisory Council are to:

105       (a)   Meet at least five times after August 1, 2006.

106       (b)   Hold a minimum of five public hearings within the  
107   Caloosahatchee-St. Lucie Rivers Corridor for the purpose of  
108   receiving public comments and information.

109       (c)   Review the operation and management of Lake Okeechobee  
110   and the associated discharges from the lake for the purpose of

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111 formulating specific recommendations relating to, but not  
112 limited to:

113 1. Scientifically viable, economically feasible projects,  
114 programs, and regulations that address or mitigate the impacts  
115 of high level discharges from Lake Okeechobee upon the receiving  
116 waters of the Caloosahatchee River and the St. Lucie Canal and  
117 St. Lucie River and their respective estuaries.

118 2. Ongoing projects and plans authorized pursuant to the  
119 Lake Okeechobee Protection Program and the Comprehensive  
120 Everglades Restoration Plan under s. 373.4592, Florida Statutes.

121 3. Environmentally and economically feasible projects to  
122 remove accumulated sedimentation from Lake Okeechobee.

123 4. Alternative treatment strategies, projects, best  
124 management practices, and funding sources to manage more  
125 effectively the hydrology of the corridor to minimize adverse  
126 ecological effects upon the receiving waters from Lake  
127 Okeechobee discharge.

128 5. Long-term funding for implementation of the projects  
129 and programs identified in the report.

130 (4) The advisory council shall prepare and submit a report  
131 and recommendations to the President of the Senate and the  
132 Speaker of the House of Representatives prior to the 2007  
133 Regular Session of the Legislature for implementation of  
134 projects and strategies to mitigate the present effects of high  
135 discharges from Lake Okeechobee upon the described basins.

136 (5) The advisory council shall submit to the Governor, the  
137 President of the Senate, and the Speaker of the House of  
138 Representatives by March 1, 2007, a report with specific

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139   recommendations for implementation by the Legislature and the  
 140   Governor that will mitigate ecological effects upon the  
 141   Caloosahatchee-St. Lucie Rivers Corridor and stabilize the  
 142   effect of high discharges from Lake Okeechobee upon the tourist  
 143   economy of Southwest and Southeast Florida.

144       (6) The advisory council shall expire on April 1, 2007.

145       Section 2. This act shall take effect upon becoming a law.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1459 Regulated Reptiles  
**SPONSOR(S):** Poppell and others  
**TIED BILLS:** IDEN./SIM. BILL

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water &amp; Natural Resources Committee</u>		Winker <i>RW</i>	Lotspeich <i>RAL</i>
2) <u>Agriculture &amp; Environment Appropriations Committee</u>			
3) <u>State Resources Council</u>			
4) _____			
5) _____			

## SUMMARY ANALYSIS

The bill requires the Fish and Wildlife Conservation Commission (FWCC) to establish a list of venomous, non-native, or other reptiles for which the possession, transportation, or exhibition is regulated. The FWCC is also required to adopt rules to implement the provisions of ss. 372.86 - 372.91, F.S., relating to regulated reptiles.

The bill replaces in ss. 372.86 – 372.92, F.S., the phrase “poisonous or venomous” with the term “regulated reptiles” to expand the category of reptiles for which a permit from FWCC is required to “keep, possess, or exhibit” to include non-poisonous and non-venomous reptiles.

The bill provides for an annual permit at a cost of \$100 per permit for persons who possess a non-poisonous regulated reptile.

The bill provides that the amount of bond required for exhibiting regulated reptiles is \$10,000, and changes the payee of the bond from the Governor to the FWCC.

The bill requires the FWCC to establish a reporting system for regulated reptiles and collect, at minimum, information on:

- The purchase or other acquisition of a regulated reptile;
- The possession of a regulated reptile;
- The sale, gift, or other transfer of a regulated reptile; and
- The death, destruction, or other disposition of a regulated reptile.

The bill subjects all regulated reptiles, including non-poisonous reptiles, to the same housing, transportation, inspection, and organized hunt requirements to which poisonous reptiles are subject under current law. The bill provides that any person who violates any provision of ss. 372.86 - 372.91, F.S., has committed a first degree misdemeanor. The bill also provides that any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape commits a third degree felony.

The FWCC estimates that approximately \$525,000 would be needed annually to process the application for a permit and the inspection of each applicant. The FWCC also estimates that the additional license fees will generate approximately \$300,000 per year.

The bill takes effect on July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill provides for additional regulations for persons keeping, possessing, and exhibiting certain reptiles with the intention of minimizing the extent to which persons intentionally or accidentally release certain reptiles into the wild.

Ensure lower taxes – The bill requires persons possessing non-poisonous reptiles to obtain a permit at an annual cost of \$100.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Current Statutes

Section 372.86, F.S., provides that no person, firm, or corporation shall keep, possess, or exhibit any poisonous or venomous reptile without obtaining a special permit or license from the Fish and Wildlife Conservation Commission (FWCC). According to the FWCC, there have been a total of less than 500 permits issued. Currently, FWCC reports that there are over 300 entities licensed to possess poisonous or venomous reptiles.

Section 372.87, F.S., authorizes the FWCC to issue a license or permit for the keeping, possessing, or exhibiting of poisonous or venomous reptiles. The FWCC is authorized to assess an annual fee of \$100 for the permit, which may be renewed on an annual basis upon the payment of the fee. The FWCC may revoke the permit for any violation of provisions in ss. 372.86 – 372.91, F.S. or any rule pertaining to such sections.

Section 372.88, F.S., requires that before a person, party, firm, or corporation can exhibit poisonous or venomous reptiles to the public, a “good and sufficient” bond in writing in the sum of \$1,000 must be provided and payable to the Governor and the Governor’s successors. The bond must be conditioned that the exhibitor will indemnify and save harmless all persons from injury or damage from the poisonous or venomous reptiles. The aggregate liability of the surety shall not exceed the sum of the bond amount.

Section 372.89, F.S., requires that any person, firm, or corporation licensed to keep, possess, or exhibit poisonous or venomous reptiles must provide safe, secure, and proper housing for the reptiles in cases, cages, pits, or enclosures. This section also makes it unlawful to keep, possess, or exhibit a poisonous or venomous reptile in any manner not approved as safe, secure, or proper by the FWCC.

Section 372.90, F.S., requires that poisonous or venomous reptiles may only be transported in a “stout closely woven cloth sack, tied or otherwise secured”, placed in a box made of “solid material in solid sheets” with air holes which must be screened. The boxes used for transportation of poisonous reptiles must be prominently labeled “Danger---Poisonous Snakes” or “Danger---Poisonous Reptiles.”

Section 372.901, F.S., provides that poisonous or venomous reptiles held in captivity must be subject to an inspection by an officer of the FWCC, who shall determine that the reptiles are securely, properly, and safely penned. If not, the FWCC officer must report the situation to the person or firm owning the reptiles. Should the person or firm fail to correct the situation within 30 days after receiving the written notice, the license or permit required to keep, possess, or exhibit the reptiles shall be revoked.

Section 372.91, F.S., provides that no person other than the person issued the license or permit to keep, possess, or exhibit the poisonous or venomous reptiles, or the person's authorized employee, may open any cage, pit, or other container holding the reptiles.

Section 372.912, F.S., provides that any person, firm, or corporation wanting to conduct an organized poisonous reptile hunt must comply with the provisions and requirements of ss. 372.86 - 372.91, F.S., and the event must be registered with the FWCC. If the event is conducted by a nonprofit organization registered with the Department of State, the licensing provisions in ss. 372.86, 372.87, and 372.88, F.S., are not required.

Section 372.265, F.S., provides that it is unlawful for sale or use, or to release within this state, "any species of the animal kingdom not indigenous to Florida without first obtaining a permit to do so" from the FWCC. The FWCC is authorized to issue or deny such a permit "upon the completion of studies of the species made by it (FWCC) to determine any detrimental effect the species might have on the ecology of the state." Persons in violation of this section can be found guilty of a first degree misdemeanor punishable pursuant to s. 775.145 or s. 775.083, F.S.

#### Captive Wildlife Technical Advisory Group

The Captive Wildlife Technical Advisory Group (CWTAG) was originally formed in 1994 for the purpose of reviewing Florida's exotic animal regulations. After several years of work, this group was abandoned and on July 15, 2005, the CWTAG was re-constituted. The CWTAG is comprised of 11 members and according to the FWCC, "represents all facets of the captive wildlife industry and wildlife rehabilitation." Members of the CWTAG also "represent experience in animal welfare, disease/bioterrorism, emergency response, and local government."

Although the CWTAG has a broad mission, a primary issue discussed at CWTAG meetings (six public meetings since July 2005) focuses on the regulation of venomous and poisonous reptiles. For example, at the October meeting, the CWTAG discussed the permitting of persons owning such reptiles as well as means to identify and track venomous reptiles.

The CWTAG also discussed the need for defining "venomous reptiles" and that the term "venomous" is not currently defined in statute or in FWCC regulations. FWCC staff reported to the CWTAG that a number of issues have arisen in attempting to define "venomous reptiles." For example, what is the threshold where the venomous reptile regulations apply? Should the FWCC consider the toxicity of the venom, the behavior of the reptile/snake, or whether or not the reptile/snake is rear-fanged? What about the issue of "venom-void" reptiles, which are reptiles which have been surgically altered to remove venom glands or alter the reptile's venom delivery system?

At its September meeting, the CWTAG was provided a presentation on the National Reptile Improvement Plan (discussed below) along with a discussion on penalties for violations of the state's requirements for keeping, possessing, and exhibiting venomous reptiles.

At its December meeting, the CWTAG again discussed the need for a definition of "venomous reptiles." The CWTAG also held a discussion on "giant reptiles (e, g., Burmese/Indian python, Amethystine python, Reticulated python, African Rock python, and the Anaconda). The CWTAG discussed proposed legislation (HB 1459) regarding the regulation of reptiles.

Also at its December meeting, the CWTAG made the following recommendations to the FWCC:

- That a new FWCC rule be adopted requiring a permanent identification marker be attached to each venomous reptile cage.
- As a condition of the issuance of a venomous reptile permit, the applicant must prepare and file a disaster and emergency plan with the FWCC.
- Each venomous reptile permit holder must be required to post on site, a "venomous bite protocol," listing actions to be taken in the event of a reptile bite.

- In the short term, “venomous reptiles” should be defined by FWCC rule to include all animals in the families Elapidae, Crotalidae, Viperidae, and Hydrophilidae; all animals in the Genus Heloderma; all animals in the following Colubridae Genera – Rhabdophis, Dispholidus, Thelatornis, and Atracapsis, in addition to any reptile species determined to have the potential to cause serious human injury due to toxic effects of its venom or poison.
- In the long term, the term “venomous reptiles” should be changed to “reptiles subject to regulation.”

### National Reptile Improvement Plan

Adopted by the Pet Industry Joint Advisory Council (PIJAC) in June 2003, the National Reptile Improvement Plan: Best Management Practices for the Reptile Trade (NRIP), provides standards and best practices designed to improve the practices of persons involved in the importation, sale, or captive breeding of reptilian and amphibian species.

The intent of the NRIP is to establish practices and standards designed to minimize the risk of international and interstate movement of reptiles causing harm to the reptiles, livestock, or the environment. Participation in the NRIP is voluntary, and is a self-regulated program that includes the adoption and implementation of best management practices, a quality assurance program, and independent verification of compliance through periodic inspections.

NRIP best management practices were developed through a consultative process with participation by representatives of the reptile industry, the reptile hobby community, reptile veterinarians, entomologists and the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services.

The NRIP defines “reptile” as any living specimens of the following taxonomic groups belonging to the class Reptilia:

- Snakes;
- Lizards;
- Turtles and Tortoises; and
- Crocodilians.

The NRIP defines the term “venomous animal” to mean any snake of the following type:

- Cobras, mambas, coral snakes, kraits, and relatives;
- Adders and vipers;
- Rattlesnakes, copperheads, and palm pit vipers;
- Mole vipers and burrowing asps;
- Sea snakes;
- Rear-fanged snakes;
- African vine or twig snakes;
- Mangrove and cat snakes; and
- Any lizard of the genus Heloderma.

The NRIP provides numerous and detailed standards and best management practices for the reptile trade. For example, under the section entitled Display and Sale at Public Events, some of the best management practices include:

- No venomous animal, including rear-fanged animal, should be sold to anyone under the age of 18 years of age.
- Sales of venomous animals should be in a separate room or location within the event site.
- All reptiles and amphibians that can cause harm should be kept in a secure container at all times.

As discussed above, the CWTAG has discussed the NRIP and has recommended that the FWCC adopt its standards and best management practices.

### **Effect of Proposed Changes**

The bill requires the Fish and Wildlife Conservation Commission (FWCC) to establish a list of venomous, non-native, or other reptiles for which the possession, transportation, or exhibition is regulated. The FWCC is also required to adopt rules to implement the provisions of ss. 372.86 - 372.91, F.S., related to regulated reptiles.

The bill replaces in ss. 372.86 – 372.92, F.S., the phrase “poisonous or venomous” with the term “regulated” reptiles to expand the category of reptiles for which a permit from the FWCC is required to keep, possess, or exhibit to include non-poisonous and non-venomous reptiles.

The bill provides for an annual permit at a cost of \$100 per permit for persons who possess a non-poisonous regulated reptile.

The bill increases the amount of bond required for exhibiting regulated reptiles from \$1,000 to \$10,000 and changes the payee of the bond from the Governor to the FWCC.

The bill requires the FWCC to establish a reporting system for regulated reptiles, and collect, at minimum, information on:

- The purchase or other acquisition of a regulated reptile;
- The possession of a regulated reptile;
- The sale, gift, or other transfer of a regulated reptile; and
- The death, destruction, or other disposition of a regulated reptile.

The bill subjects all regulated reptiles, including non-poisonous reptiles, to the same housing, transportation, inspection, and organized hunt requirements to which poisonous reptiles are subject under current law (ss. 372.86 - 372.912, F.S.).

The bill provides that any person who violates any provision of ss. 372.86 - 372.91, F.S., has committed a first degree misdemeanor. The bill also provides that any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape commits a third degree felony.

The FWCC estimates that there would be a fiscal impact of approximately \$525,000 to process the application for a permit and the inspection of each applicant. The FWCC also estimates that the additional license fees will generate approximately \$300,000.

The bill takes effect on July 1, 2006.

### **C. SECTION DIRECTORY:**

Section 1: Amends s. 372.86, F.S., to require the FWCC to establish a list of reptiles for which the possession, transportation, or exhibition is regulated.

Section 2: Amends s. 372.87, F.S., to delete the terms “poisonous” and “venomous” before “reptiles” and replaces these terms with the term “regulated.”

Section 3: Amends s. 372.88, F.S., to revise the bond amount and payee required for persons exhibiting regulated reptiles.

- Section 4: Amends s. 372.89, F.S., to delete the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 5: Amends s. 372.90, F.S., to require that regulated reptiles be transported in a specified manner.
- Section 6: Amends s. 372.901, F.S., to require the FWCC to establish by rule a reporting system for regulated reptiles.
- Section 7: Amends s. 372.91, F.S., to delete the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 8: Renumbers s. 372.911, F.S., as s. 372.0715, F.S.
- Section 9: Renumbers and amends s. 372.912, F.S., as s. 372.902, F.S., deletes the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 10: Amends s. 372.92, F.S., establishes penalties for violating requirements for regulating reptiles.
- Section 11: The bill takes effect on July 1, 2006.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

FWCC estimates that approximately 3,000 additional entities will be required to obtain a permit for possession, keeping, and exhibiting regulated reptiles under the provisions of the bill. At an annual fee of \$100, revenues would increase \$300,000.

#### **2. Expenditures:**

FWCC estimates that at a cost of \$50 to process an application for a regulated reptile permit and \$125 per inspection for each permit applicant, there would be an additional expenditure for FWCC of \$525,000 based upon an estimated 3,000 additional reptile permits.

The bill will also have an indeterminate fiscal impact upon the FWCC for the implementation of a regulated reptile reporting system.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Entities exhibiting regulated reptiles will have to secure a bond in the amount of \$10,000. This amounts to an increase of \$9,000 from the \$1,000 for those currently exhibiting poisonous and venomous reptiles under current law. Entities currently exhibiting non-poisonous reptiles currently have no bond requirement. The bill will impose a \$10,000 bond requirement on them. Entities possessing non-

poisonous regulated reptiles will now be required to have the same annual permit, at a cost of \$100 per permit, as those entities possessing poisonous or venomous reptiles.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Pursuant to Article IV, Section 9 of the Florida Constitution, the FWCC has the authority to exercise the regulatory and executive powers of the state with respect to fresh water aquatic life, marine life, and wild animal life. However, this Constitutional provision requires that "all license fees for taking wild animal life, fresh water aquatic life and marine life and penalties for violating regulations of the commission shall be prescribed by general law." The fees and penalties provided by the bill appear to be consistent with this constitutional requirement.

B. RULE-MAKING AUTHORITY:

The bill requires the FWCC to amend current rules related to the possession, keeping, and exhibiting of poisonous and venomous reptiles to expand the list of regulated reptiles to include non-poisonous reptiles. The bill also requires FWCC to adopt rules for implementing a regulated reptile reporting system.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates penalties for persons who knowingly release a regulated reptile to the "wild" or who through "gross negligence" allow a regulated reptile to escape. The bill does not define the terms "wild" and "gross negligence," which could lead to vague and discretionary interpretations for FWCC enforcement officers.

The following comments were provided by staff at the FWCC.

The bill provides for enhanced regulations for the possessing and exhibiting of certain reptiles as determined by the FWCC. These enhanced regulations are needed for the following reasons:

- The safety and health of the public, native wildlife, and the environment.
- The effort to prevent all introductions of exotic species and developing regulations to address the more problematic species.
- The establishment of several species of non-native reptiles which now threaten native species and their habitats.
- The great size and/or potential environmental harm of such reptiles if released into the wild.

The penalties created by the bill are inconsistent with penalties for similar offenses. A person who violates any provision or FWCC rule of ss. 372.86 – 372.91, F.S., commits a first degree misdemeanor. These violations are similar to those applying to the exhibition, possession, and safe housing of other types of captive wildlife, which are second degree misdemeanors. A person who knowingly releases a regulated reptile to the wild or who through gross negligence results in a regulated reptile to escape commits a third degree felony. These violations are similar to violations related to the release of any freshwater fish species not indigenous to the state, which are first degree misdemeanors.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A



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A bill to be entitled

An act relating to regulated reptiles; amending s. 372.86, F.S.; requiring the Fish and Wildlife Conservation Commission to establish a list of reptiles subject to regulation; authorizing the commission to adopt rules; amending s. 372.87, F.S.; requiring licensure for the keeping, possessing, or exhibiting of regulated reptiles; amending s. 372.88, F.S.; increasing the required bond amount for the exhibition of regulated reptiles; requiring such bonds to be payable to the commission; amending s. 372.89, F.S.; requiring safe, secure, and proper housing of regulated reptiles; amending s. 372.90, F.S.; providing for the transportation of regulated reptiles; amending s. 372.901, F.S.; providing for the inspection of regulated reptiles; requiring the commission to establish a reporting system for certain activities related to regulated reptiles; amending s. 372.91, F.S.; authorizing certain persons to open regulated reptile cages; renumbering s. 372.911, F.S., relating to rewards, to conform; renumbering and amending s. 372.912, F.S., relating to organized regulated reptile hunts; amending s. 372.92, F.S.; providing criminal penalties for certain activities related to regulated reptiles; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 372.86, Florida Statutes, is amended to read:

372.86 Possessing or, exhibiting regulated ~~poisonous or venomous~~ reptile; license required.--

(1) The Fish and Wildlife Conservation Commission shall establish a list of venomous, nonnative, or other reptiles for which the possession, transportation, or exhibition is regulated. The commission is authorized to adopt rules pursuant to chapter 120 to implement the provisions of ss. 372.86-372.91.

(2) No person, firm, or corporation shall keep, possess, or exhibit any regulated ~~poisonous or venomous~~ reptile without first having obtained a special permit or license therefor from the Fish and Wildlife Conservation Commission as herein provided.

Section 2. Section 372.87, Florida Statutes, is amended to read:

372.87 License fee; renewal, revocation.--The Fish and Wildlife Conservation Commission is hereby authorized and empowered to issue a license or permit for the keeping, possessing, or exhibiting of regulated ~~poisonous or venomous~~ reptiles, upon payment of an annual fee of \$100 and upon assurance that all of the provisions of ss. 372.86-372.91 and such other reasonable rules and regulations as said commission may prescribe will be fully complied with in all respects. Such permit may be revoked by the Fish and Wildlife Conservation Commission upon violation of any of the provisions of ss. 372.86-372.91 or upon violation of any of the rules and regulations prescribed by said commission relating to the

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keeping, possessing, and exhibiting of any regulated ~~poisonous~~  
~~and venomous~~ reptiles. Such permits or licenses shall be for an  
annual period to be prescribed by the said commission and shall  
be renewable from year to year upon the payment of said fee and  
shall be subject to the same conditions, limitations, and  
restrictions as herein set forth.

Section 3. Section 372.88, Florida Statutes, is amended to  
read:

372.88 Bond required, amount.--No person, party, firm, or  
corporation shall exhibit to the public either with or without  
charge, or admission fee any regulated ~~poisonous or venomous~~  
reptile without having first posted a good and sufficient bond  
in writing in the penal sum of \$10,000 ~~\$1,000~~ payable to the  
Fish and Wildlife Conservation Commission ~~Governor of the state,~~  
~~and the Governor's successors in office~~, conditioned that such  
exhibitor will indemnify and save harmless all persons from  
injury or damage from such regulated ~~poisonous or venomous~~  
reptiles so exhibited and shall fully comply with all laws of  
the state and all rules and regulations of the ~~Fish and Wildlife~~  
~~Conservation~~ commission governing the keeping, possessing, or  
exhibiting of regulated ~~poisonous or venomous~~ reptiles;  
provided, however, that the aggregate liability of the surety  
for all such injuries or damages shall, in no event, exceed the  
penal sum of said bond. The surety for said bond must be a  
surety company authorized to do business under the laws of the  
state or in lieu of such a surety, cash in the sum of \$10,000  
~~\$1,000~~ may be posted with the said commission to ensure  
compliance with the conditions of said bond.

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Section 4. Section 372.89, Florida Statutes, is amended to read:

372.89 Safe housing required.--All persons, firms, or corporations licensed under this law to keep, possess, or exhibit regulated ~~poisonous or venomous~~ reptiles shall provide safe, secure, and proper housing for said reptiles in cases, cages, pits, or enclosures. It shall be unlawful for any person, firm, or corporation, whether licensed hereunder or not, to keep, possess, or exhibit any regulated ~~poisonous or venomous~~ reptiles in any manner not approved as safe, secure, and proper by the Fish and Wildlife Conservation Commission.

Section 5. Section 372.90, Florida Statutes, is amended to read:

372.90 Transportation.--Regulated ~~Poisonous or venomous~~ reptiles may be transported only in the following fashion: The reptile, or reptiles shall be placed in a stout closely woven cloth sack, tied or otherwise secured. This sack shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes, which holes shall be screened. Boxes containing ~~poisonous or venomous snakes or other~~ reptiles shall be prominently labeled "~~Danger--Poisonous Snakes~~" or "Danger--Poisonous Reptiles."

Section 6. Section 372.901, Florida Statutes, is amended to read:

372.901 Inspection and reporting.--

(1) Regulated ~~Poisonous or venomous~~ reptiles, held in captivity, shall be subject to inspection by an inspecting officer from the Fish and Wildlife Conservation Commission. The

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inspecting officer shall determine whether the said reptiles are securely, properly, and safely penned. In the event that the reptiles are not safely penned, the inspecting officer shall report the situation in writing to the person or firm owning the said reptiles. Failure of the owner or exhibitor to correct the situation within 30 days after such written notice shall be grounds for revocation of the license or permit of said owner or exhibitor.

(2) The commission shall establish by rule a reporting system for regulated reptiles. Such reports may include, but are not limited to, information regarding:

(a) The purchase or other acquisition of a regulated reptile.

(b) The possession of a regulated reptile.

(c) The sale, gift, or other transfer of a regulated reptile.

(d) The death, destruction, or other disposition of a regulated reptile.

Section 7. Section 372.91, Florida Statutes, is amended to read:

372.91 Who may open cages, pits, or other containers housing regulated ~~poisonous or venomous~~ reptiles.--No person except the licensee or her or his authorized employee shall open any cage, pit, or other container which contains regulated ~~poisonous or venomous~~ reptiles.

Section 8. Section 372.911, Florida Statutes, is renumbered as section 372.0715, Florida Statutes.

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Section 9. Section 372.912, Florida Statutes, is renumbered as section 372.902, Florida Statutes, and amended to read:

372.902 ~~372.912~~ Organized regulated ~~poisonous~~ reptile hunts.--

(1) All persons, firms, and corporations sponsoring and conducting any organized regulated ~~poisonous~~ reptile hunt for whatever purpose shall comply with the provisions of ss. 372.86-372.91.

(2) All persons participating in any organized regulated ~~poisonous~~ reptile hunt in the state which is sponsored and conducted by a nonprofit organization registered with the Department of State under the provisions of chapter 617 shall be exempt from the licensing provisions contained in ss. 372.86, 372.87, and 372.88, only for the duration of said organized hunt.

(3) All organized regulated ~~poisonous~~ reptile hunts in the state shall be registered with the Fish and Wildlife Conservation Commission and be subject to reasonable rules and regulations promulgated by said commission.

Section 10. Section 372.92, Florida Statutes, is amended to read:

372.92 Rules and regulations; penalties.--

(1) The Fish and Wildlife Conservation Commission may prescribe such other rules and regulations as it may deem necessary to prevent the escape of regulated ~~poisonous and venomous~~ reptiles, either in connection of construction of such cages or otherwise to carry out the intent of ss. 372.86-372.91.

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167        (2) Any person who violates a provision of ss. 372.86-  
 168        372.91 or any rule or regulation established under ss. 372.86-  
 169        372.91 commits a misdemeanor of the first degree, punishable as  
 170        provided in s. 775.082 or s. 775.083.

171        (3) Any person who knowingly releases a regulated reptile  
 172        to the wild or who through gross negligence allows a regulated  
 173        reptile to escape commits a felony of the third degree,  
 174        punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

175        Section 11. This act shall take effect July 1, 2006.